

REMARKS

The above noted Office Action and the references cited therein have been carefully considered and, in view of the amendments herein to the claims and the following representations, reconsideration of the application in its present form is respectfully requested.

In view of the amendment herein with new Claim 9, it is respectfully submitted that the claims more particularly point out distinctly claim the method of the present invention.

With respect to the rejection under 35 USC 102(b) based upon being anticipated by the serrated spoon of Green, in view of the amendments herein to Claims 1 and 8, it is respectfully submitted that the rejection of these claims under 35 U.S.C. 102(b) as being unpatentable over Green be now withdrawn.

For example, Green teaches using its serrated spoon instrument more for scraping food, such as corn for people with poor or no teeth. However, the reference actually does not teach the use of scooping interior dough by rearward pulling, such as bagel dough.

Green is concerned with an upwardly facing shallow concave bowl with serrated teeth to advance forwardly against fruit and vegetable pulp. Its concave bowl extends substantially parallel to the longitudinal axis of the handle of the spoon. Use of Green to scoop bagels is unsatisfactory, because it does have the downward facing concave bowl, preferably approximately at a 90° angle, for pulling the excess dough out, as well as the use of fine teeth that will not go through the bagel wall. In fact,

Green's upwardly facing concave bowl hinders its effectiveness in scooping bagels.

Thus, contrary to the contention of the Examiner, Green teaches that the serrated edge not only grasps the food but cuts it in a forward motion as well. Therefore use of Green's upwardly extending serrated spoon instrument is not suitable for use with the delicate wall of the bagel, due to the forward motion of the serrated spoon, and the detrimental effects of ripping the delicate bagel wall.

Thus, the general use of Green's upwardly extending serrated spoon, in conjunction with scooping bagels innards of dough, would be suspect as to its effectiveness or expectation of success, unless the upward orientation of the concave portion were reversed downwardly, preferably substantially perpendicular to the handle, so that it can scooped rearwardly.

Simply using a serrated spoon with bagel scooping would be dangerous because the forward pushing motion could cause the spoon to slip right into the hand of the user holding and stabilizing the bagel, whereas holding the bagel itself in front of the bagel scooper and pulling rearward away from the holding hand of the user would not cause any slipping or possible cutting of the user's hand or ripping of the delicate bagel wall.

The use of the downwardly extending scoop recess in the present invention for bagel scooper, with downward and rearward pulling, would be discouraged, if not clearly taught away from the spoon of Green.

Thus, contrary to the position of the Examiner concerning the use of a serrated spoon as in Green, is not only not suggested, but would be discouraged or taught away by the references relied on.

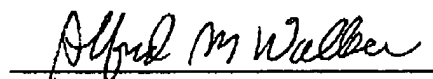
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Therefore, the rejection of under 35 USC 102(b) should now be withdrawn.

Applicant submits that the application is in condition for allowance, which allowance is earnestly solicited.

Respectfully submitted,

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